

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administrative Office	(2) MEETING DATE 8/7/2012	(3) CONTACT/PHONE Vincent Morici (805) 781-5011	
(4) SUBJECT Request to Review and Authorize a New Process to Allocate Off Highway Vehicle In Lieu Fees			
(5) RECOMMENDED ACTION It is recommended that your Board approve the following proposals for the distribution of future annual Off Highway Vehicle (OHV) In-Lieu Fee revenues: 1. Future annual Off Highway Vehicle In-Lieu Fee revenues are to be divided into equal shares with 50% to be allocated to County departments and 50% to be allocated to other governmental and non-profit organizations. 2. Allocations of funding to County departments will be determined through the established Budget Augmentation Request process in the annual County Budget. Allocations of funding to governmental organizations and non-profit organizations will be determined through an annual competitive application process overseen by County Park's staff with qualifying projects being reviewed by the County Parks Commission. The Parks Commission will recommend projects for inclusion in the County's annual budget, subject to the approval by the Board of Supervisors.			
(6) FUNDING SOURCE(S) Off Highway Vehicle In-Lieu Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT Distribute approximately \$160,000 in OHV In-Lieu Fee revenue.	(9) BUDGETED? No
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input checked="" type="checkbox"/> Board Business (Time Est. 40 min)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date 11/25/2008 2/10/2009	
(17) ADMINISTRATIVE OFFICE REVIEW <div style="height: 50px;"></div>			
(18) SUPERVISOR DISTRICT(S) All -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Administrative Office / Vincent Morici (805) 781-5011

DATE: 8/7/2012

SUBJECT: Request to Review and Authorize a New Process to Allocate Off Highway Vehicle In Lieu Fees

RECOMMENDATION

It is recommended that your Board approve the following proposals for the distribution of future annual Off Highway Vehicle (OHV) In-Lieu Fee revenues:

3. Future annual Off Highway Vehicle In-Lieu Fee revenues are to be divided into equal shares with 50% to be allocated to County departments and 50% to be allocated to other governmental and non-profit organizations.
4. Allocations of funding to County departments will be determined through the established Budget Augmentation Request process in the annual County Budget. Allocations of funding to governmental organizations and non-profit organizations will be determined through an annual competitive application process overseen by County Park's staff with qualifying projects being reviewed by the County Parks Commission. The Parks Commission will recommend projects for inclusion in the County's annual budget, subject to the approval by the Board of Supervisors.

Discussion

Background

The County receives revenue from a \$4 in-lieu of taxes fee levied through Section 38230 of the Motor Vehicle Code. The fee is distributed to counties based upon a proportional estimate of off highway vehicle use in counties as derived from statistics that relate to off highway use as reported by State Parks and Recreation. Vehicle Code Sections 38230 and 38240 require that OHV In-Lieu Fee funding be applied to uses that are consistent with the uses identified in Public Resources Code 5090.50. All allowed uses are related to off highway vehicle use. There are four general categories of use allowable. These are as follows:

1. Maintenance, operation, planning, development of off highway trails and facilities associated with off highway vehicles
2. Ecological restoration or repair of damage caused by off highway vehicles
3. Law enforcement entities and related equipment
4. Education for safe and responsible use off highway vehicles or safety programs associated with off highway vehicle recreation

The application of OHV In-Lieu Fee funding is not restricted by geographical location. These funds can be applied to projects consistent with the above uses in any area of the County. The Board of Supervisors has complete discretion to allocate or retain these funds. Allocated funding must be applied to projects or uses consistent with those described by law.

Beginning in 2006, the annual amount of In-Lieu Fee revenue received by the County increased from approximately \$4,000 per year to approximately \$160,000. The increase in OHV In-Lieu Fees was the result of state legislation revising the allocation formula from one based on population, to one based upon the estimated recreational off highway vehicle use. From 2008 through the present, approximately \$570,000 in In-Lieu fee revenue has been distributed, with most of In-Lieu Fee revenue being applied to projects sponsored by County departments. Approximately 15% of the distributed funds have gone to other governmental agencies and non-profit organizations.

In 2009, the Board approved allocating OHV In-Lieu fees through the County Budget process and also approved restricting the allocation of In-Lieu Fee revenue to one time projects rather than committing the use of these fees as ongoing annual allocations.

Over 80% of the allocated OHV In-Lieu Fee funding has been applied to projects in the Oceano area. Several other projects outside of the Oceano area were also funded. The following is a listing of projects funded with OHV In-Lieu Fees.

- Installation of barriers to prevent illegal access of off highway vehicles on the Arroyo Grande Creek levee (\$82,000 – Flood Control District Zone 1 and 1A)
- Repair of damage to the Arroyo Grande Creek Levee from off-highway vehicle use (\$100,000 – Flood Control District Zone 1 and 1A)
- Removal of sand from Pier Avenue (\$30,000 – County Public Works roads)
- Sand removal and barrier installations in the Strand Way area adjacent to the Oceano Dunes State Vehicle Recreation Area (ODSVRA) (\$103,000 – County Public Works roads)
- Equipment for the Oceano Fire Station to support response to the ODSVRA (\$54,600 -Oceano Community Services District)
- Purchase of off highway quad vehicles for Sheriff response to the ODSVRA (33,700 -County Sheriff Department)
- Funding to improve electrical systems at the Coastal Dunes Recreation Vehicle Park adjacent to the ODSVRA (\$50,000 – County Parks)
- Contribution to assist in the funding of a consultant study to determine methods to reduce fugitive dust from the ODSVRA (\$25,000 – Air Pollution Control District and State Parks)
- Construction of barriers to prevent illegal off highway vehicle access on the hillsides above Cayucos (\$40,000 County Public Works roads)
- Several projects involving environmental studies and trail restoration work on off highway motorcycle trails in the Los Padres National Forest (\$58,000 – funding applied to California Conservation Corps, US Forest Service and Central Coast Motorcycle Association)

In 2010 the distribution of funding was largely curtailed and OHV In-Lieu fee funds were retained in a trust account as a hedge against the potential future County expense related to Air Pollution Control District (APCD) requirements to mitigate fugitive dust from off highway vehicle use on the Oceano Dunes. Approximately \$450,000 has been set aside for this purpose. As the issue of fugitive dust mitigation is not yet resolved, staff continues to recommend retention of the funds currently on hand to provide funding for potential future expense. Any funds remaining at the conclusion of the APCD's process to mitigate fugitive dust will be made available to County departments and other governmental and non-profit organizations through the recommended process to distribute these funds. Although staff recommends continued

retention of these funds currently on hand, staff also recommends that future annual revenues be allocated annually for the projects consistent with the allowable uses.

Proposed Process to Allocate Future Annual OHV Revenues

Staff recommends that future OHV In-Lieu Fee revenues be divided into two equal shares, with a 50% share to be allocated to County Departments and a 50% share to be allocated to other governmental and non-profit organizations. Historically, about 20% of the OHV In-Lieu Fee revenues have gone to organizations outside of the County. This proposal increases the available share of future revenues for agencies and non-profits outside of County government to 50%. Although OHV In-Lieu Fees vary from year to year, it is anticipated there will be approximately \$160,000 in OHV In-Lieu Fees to distribute as part of the FY 2013-14 County budget process. Any unallocated funding would be carried over for allocation in the subsequent year.

Staff also recommends that OHV In-Lieu Fee funds designated for County departments continue to be allocated through the established County budget process. Staff proposes to revise the process for allocating funding to other governmental organizations by incorporating a competitive application process administered by the County Parks organization along with a review and recommendation process by the County Parks Commission. Recommended projects would then be incorporated into the County Parks Budget as pass through funds subject to the approval by the Board of Supervisors. The recommended projects and funding amounts will be described in the County Parks budget narrative.

Utilizing the County Parks organization in this process is intended to accomplish the following:

1. Expand the solicitation of partners to sponsor and carry out projects which are consistent with required use of these funds.
2. OHV-Lieu Fees can be used in any area of the County. The Parks Commission represents all areas of the County and the evaluation and recommendations of the Commission will assure that all areas of the County are represented in this process.
3. These funds are derived from the recreational use of off highway vehicles and are oriented to projects related to the recreational use of off highway vehicles. The Parks Commission is the appointed entity that makes recommendations on a variety of recreation related topics.

On June 28, 2012, Parks staff brought this proposed concept to the Parks Commission to determine whether they would be interested in participating in the review of projects funded by OHV In-Lieu Fees. The Parks Commission voted 4-1 to endorse this concept.

The overall intent of the proposal is to create a more clearly defined and broader based process to review and recommend funding allocations for OHV In-Lieu Fee funds to be used by other governmental and non-profit organizations. The process also proposes a more clearly defined split of the OHV In-Lieu Fee revenues to be shared between County departments and outside organizations.

Other Considerations

The City of Grover Beach, the Oceano Community Services District (OCSD) and the Five Cities Fire Authority have expressed interest in accessing OHV In-Lieu Fee funding and in providing input to the method in which these funds are distributed. In general, the OCSD, Five Cities Fire Authority and the City of Grover Beach are seeking a funding process which would help ensure that that Off Highway Vehicle In-Lieu Fee funding will be applied to their respective jurisdictions.

The proposed competitive application process would allow the above jurisdictions to annually apply for OHV In-Lieu Fee funds for individual projects consistent with the identified uses. Since these funds are open for use in all areas of the

county, other jurisdictions and non-profit organizations may also apply for funds if they have individual projects which meet the use requirements.

Applications for projects involving fire department requests for OHV In-Lieu Fee funds should be coordinated with Cal Fire/County Fire.

Alternatives to the Recommended Process

Other alternatives were also considered in developing the recommended process before your Board today. The staff evaluation did not identify Alternative 1 and 2 as providing a broad enough base of access to the funding as provided in the recommended process. Changing the percentage allocation between County department sponsored projects and projects sponsored by the other governmental and non-profit organizations, as shown in Alternative 3, is at the discretion of your Board. The alternatives are listed below.

1. Keep the process as it currently exists. There would be no defined split of revenues between County departments and other governmental and non-profit organizations and all requests would be submitted to the Administrative Office with staff recommending funding for individual projects as part of the annual budget process.
2. Restrict the use of OHV In-Lieu Fee funding to County departments and allocate this funding as part of the annual budget process. This alternative would reduce staff time and expense to allocate these funds.
3. Approve the process to allocate funds as recommended in this staff report, but change the percentage to be shared between County departments and other governmental and non-profit organizations.

Conclusion

The staff recommendation attempts to balance the efficiencies gained by using established processes along with the potential benefits of creating a more open application and review process for agencies and non-profit organizations wishing to access these funds.

Attachment 1 provides additional background information including an outline of the proposed process, a timeline for implementing the process and referenced sections of the Vehicle Code and Public Resources Code.

Other Agency Involvement

All seven cities, the Oceano Community Services District, the Central Coast Motorcycle Association and the Friends of Oceano Dunes received written notice of the August 7, 2012 Board meeting along with a background and summary of the recommended process. The Sheriff's Department, County Fire Department and the County Public Works Department have been contacted regarding the proposed change to the method to allocate OHV In-lieu Fees.

The Oceano Community Services District and the Five Cities Fire Authority have provided input to the Administrative Office and the County Parks Commission. The City of Grover Beach has submitted a letter, attached to this report (Attachment 2), with their comments.

County Counsel was consulted on the legislative requirements contained in the Vehicle Code and Public Resources Code relating to the distribution and use of OHV In-Lieu Fees. County Parks and the Parks Commission have endorsed the recommended division of funds as well as the process to distribute funds to outside organizations.

Financial Considerations

Annually, the County receives approximately \$160,000 to \$170,000 in Off Highway Vehicle In-Lieu Fees. Since 2006, approximately \$1 million dollars of funding has been received. Approximately \$570,000 in OHV In-Lieu fee funding has been allocated to County departments and other governmental and non-profit organizations. There is a current balance of approximately \$450,000 which is being retained in a trust account to provide funding for potential future expense associated with the mitigation of fugitive dust from the Oceano Dunes State Vehicle Recreation Area.

This proposal would establish a process to distribute future annual OHV In-Lieu Fee revenues with 50% of the future revenues to be allocated to County departments through the County Budget Process and 50% of the revenues to be allocated other governmental and non-profit organizations through a competitive application process. All allocations would continue to be for one time projects that meet the use requirements as described in law.

There would be additional costs to the County Parks and Recreation budget to administer the recommended process. The annual cost for staff, materials and advertising is estimated to be approximately \$5,000 and is proposed to be funded through OHV In-Lieu Fees.

Results

The recommendation creates a more defined and transparent process for allocating OHV In-Lieu fees. The future allocation of OHV In-Lieu Fee funding will support projects which may enhance off highway vehicle related recreational opportunities, repair and restore ecological and environmental areas damaged by off highway vehicle use, provide funding to support law enforcement functions related to OHV use and promote the safe operation and use of off highway motor vehicle recreation. Projects meeting the above uses will assist in meeting countywide goals of a safe, and livable community.

ATTACHMENTS

1. Background, Summary of Proposed Process and Relevant California Code Sections
2. Letter from the City of Grover Beach